

**LOUISIANA REVISED STATUTES**  
**TITLE 9. CIVIL CODE BOOK III**  
**OF THE DIFFERENT MODES OF**  
**ACQUIRING THE OWNERSHIP OF THINGS**  
**CODE TITLE XII—OF LOAN**  
**CHAPTER 2. LOUISIANA CONSUMER CREDIT LAW**  
**PART XV. CREDIT REPAIR SERVICES ORGANIZATIONS ACT**  
(Current through 2006 Regular Legislative Session)

**The information contained herein is not an official version of the statutes. Anyone relying on it without first consulting with an attorney does so at his/her own risk.**

**9:3573.1. Short title; purpose license; renewal; application; change of location; change of name; fees**

A. This Part shall be known and may be cited as the "Credit Repair Services Organizations Act".

B. The Legislature of Louisiana recognizes the right of the citizens of the state to utilize the services of qualified credit repair organizations for advice and assistance in improving their credit matters. The Legislature of Louisiana does hereby declare that it is in the best interest of the citizens of the state to protect consumers in their efforts to improve their credit record, history, and rating. The purpose of this Part is to promote the safety and welfare of the people of this state by providing for regulatory oversight in an area in which unqualified or unscrupulous individuals may injure or mislead the public.

C. No person shall conduct business as a credit repair services organization without first having obtained a license from the commissioner and paying a five hundred dollar application fee.

D. (1) No license shall be issued unless the commissioner, upon investigation, finds that the financial responsibility, character, and fitness of the applicant, its owners, its partners if the applicant is a partnership, its members if the applicant is a limited liability company, and its officers and directors if the applicant is a corporation, are such as to warrant a belief that the business will be conducted honestly and fairly within the purposes of this Part. The commissioner may grant restricted or conditional licenses.

(2)(a) Upon written request, an applicant may seek a hearing on the question of his qualification for a license if either:

(i) The commissioner has notified the applicant in writing that his application has been denied.

(ii) The commissioner has not issued a license within sixty days of the date a complete application was filed.

(b) A request for a hearing may not be made more than thirty days after the applicant has received the written notice notifying him that the application was denied and stating the commissioner's findings in support of the denial of the application.

E. Every application for a license shall contain such information as the commissioner may require to determine if the applicant qualifies for a license.

F. Annually by November first each credit repair services organization shall file a renewal application and pay a renewal fee of four hundred dollars. An annual renewal application received by the commissioner postmarked after December first shall be accompanied by a late filing fee of two hundred dollars, in addition to the annual renewal fee.

G. If the annual renewal application and renewal fee is not received postmarked by December thirty-first, the license shall lapse without a hearing or notification, and the license shall not be reinstated; however, the person whose license has lapsed may apply for a new license. No new license shall be issued upon the filing of a new application by any person against whom any penalty or fee has been imposed unless and until such penalty or fee previously accrued under this Section has been paid.

H. A license cannot be sold or transferred by any means.

I. A credit repair services organization shall not change location or change its name without prior written approval of the commissioner. A fee of one hundred dollars is required to change a location or name. In addition to the one hundred dollar fee, a penalty of two hundred dollars shall be paid if prior written approval is not obtained.

J. (1) Any person whose application, or renewal application, for licensure under this Part, has been denied for any reason, may not reapply for a license under this Part until after at least three years from the date of the order of denial, unless the commissioner, in his sole discretion, prescribes an earlier or later date.

(2) For purposes of this Subsection, the term "order" shall mean the first to occur of either:

(a) The date of the issuance of the commissioner's notification of denial of the person's application; or

(b) Sixty days after the filing of that application.

(3) For purposes of this Subsection, the term "person" shall mean the applicant, its owners, and its members if the applicant is a limited liability company, its partners if the applicant is a partnership, its officers and directors if the

applicant is a corporation, and any other person determined by the commissioner, in his sole discretion, to be closely related to the person.

K. (1) No person shall acquire or control a credit repair service organization license through the acquisition or control of more than fifty percent of the ownership interest in a licensee without first having obtained written approval from the commissioner, pursuant to an application for a change of control in ownership of the licensee, filed in the manner and on a form prescribed by the commissioner and accompanied by a fee of three hundred dollars. Any person who acquires controlling interest in a licensee without first having filed an application for change of control with the commissioner shall be deemed to be operating without proper authority and subject to the penalties of this Part.

(2) For the purposes of this Section, a person acquires or controls the licensee when at least one of the following conditions exists:

(a) The person, directly or acting through one or more other persons, owns, controls, or has the power to vote more than fifty percent of any class of stock of the corporation.

(b) The person controls, in any manner, the election of a majority of the directors of the corporation.

(c) The commissioner determines, after notice and an opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the management or the policies of the licensee.

(3) When the licensee is a limited liability company or a limited liability partnership, the licensee is acquired or controlled if one of the following occurs:

(a) There is a change of managers or general partners.

(b) An existing manager or general partner acquires or controls the licensee as provided in Paragraph (2) of this Subsection.

(c) The commissioner determines that there has been a significant change in the membership or partnership interests, including but not limited to a change in ownership or control, directly or indirectly affecting twenty-five percent or more of the total interest of the licensee.

(4) A corporation that is a licensee shall notify the commissioner within sixty days of a stockholder becoming a principal stockholder, which is defined for purposes of this Section as owning ten percent or greater of the outstanding stock of the corporation.

#### **9:3573.2. Definitions; exemptions**

A. As used in this Part, the following terms shall have the following meanings:

(1) "Buyer" means an individual who is solicited to purchase or who purchases the services of a credit repair services organization.

(2) "Commissioner" means the commissioner of the office of financial institutions.

(3) "Consumer reporting agency" shall have the meaning assigned by Section 603(f), Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).

(4) "Credit repair services organization" means a person who, with respect to a buyer, in return for the payment of money or other valuable consideration, directly or indirectly, provides or represents that he can or will, directly or indirectly, provide any of the following services:

(a) Improving a buyer's credit record, history, or rating.

(b) Advice or assistance to a buyer with regard to improving a buyer's credit record, history, or rating, including the sale of a self-help instructional guide.

(5) "Person" means an individual, corporation, partnership, trust, association, joint venture pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein.

B. The following are exempt from this Part:

(1) Repealed by Acts 2004, No. 79, § 2, effective May 28, 2004.

(2) A licensed lender or other person authorized to make or broker loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States, or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the National Housing Act (12 U.S.C. Section 1701 et seq.), provided the credit repair service is in connection with a loan and no additional fee is charged.

(3) A bank or savings association whose deposits or accounts are federally insured or a wholly-owned subsidiary of such a bank or savings association.

(4) A credit union doing business in this state.

(5) A person licensed to practice law in this state while acting within the course and scope of the person's practice as an attorney, and when such attorney is not actively and principally engaged as a credit repair services organization and such attorney's credit repair services are ancillary to the providing of other legal services. The exemption provided for in this Paragraph does not apply when an attorney is paid a fee by a client solely for the purposes of providing services, directly or indirectly, as a credit repair services organization as defined in Paragraph(A)(4) of this Section.

(6) A consumer reporting agency.

(7) Certified public accountants licensed to practice their profession in the state of Louisiana, while acting within the course and scope of their practice as a certified public accountant, and when such certified public accountant is not actively and principally engaged as a credit repair services organization and such certified public accountant's credit repair services are ancillary to the providing of other accounting services. The exemption provided for in this Paragraph does not apply when a certified public accountant is paid a fee by a client solely for the purposes of providing services, directly or indirectly, as a credit repair organization defined in Paragraph(A)(4) of this Section.

#### **9:3573.3. Prohibited conduct**

A credit repair services organization or a salesperson, agent, or representative of a credit repair services organization, who sells or attempts to sell the services of a credit repair services organization shall not:

- (1) Charge a buyer or receive from a buyer money or other valuable consideration unless the credit repair services organization has obtained, in accordance with R.S. 9:3573.4, a surety bond issued by a surety company authorized to do business in this state or has established and maintains a trust account at a federally insured bank or savings association located in this state in which the amount required by R.S. 9:3573.4(E) is held in trust as required by R.S. 9:3573.4.
- (2) Make or use a false or misleading representation in the offer or sale of the services of a credit repair services organization, including guaranteeing to "erase bad credit" or words to that effect unless the representation clearly discloses that this can be done only if the credit history is inaccurate or obsolete.
- (3) Engage, directly or indirectly, in a fraudulent or deceptive act, practice, or course of dealing in connection with the offer or sale of the services of a credit repair services organization.
- (4) Make or advise a buyer to make a statement with respect to a buyer's credit worthiness, credit standing, or credit capacity that is false or misleading or that should be known by the exercise of reasonable care to be false or misleading to a consumer reporting agency or to a person who has extended credit to a buyer.
- (5) Advertise or cause to be advertised, in any manner whatsoever, the services of a credit repair services organization without filing a registration statement with the office of financial institutions, unless otherwise provided by this Part.
- (6) Make nonessential requests for credit information relating to a buyer from any source providing such information for no cost.
- (7) Directly or indirectly, as determined by the commissioner through any affiliated, subsidiary, related person, or otherwise, charge or receive any money or other consideration or thing of value for the performance of any service which the credit repair services organization has agreed to perform, or represented that it will perform, for any buyer before such service is fully performed.
- (8) As determined by the commissioner, structure a transaction with a buyer in such a manner as to attempt to circumvent the provisions of this Part.
- (9) Divide a transaction into multiple transactions, as determined by the commissioner, such as by attempting to sell or selling any publication, including but not limited to any book, pamphlet, or electronic or computer guide, related in any way to improving a buyer's credit record, history, or rating, to a buyer and, directly or indirectly, through an affiliate, subsidiary, related person, or otherwise, providing services to the buyer to assist him in utilizing or implementing the information or directions contained therein, unless all charges and fees related to such sale and service combined do not exceed the bona fide costs for publishing the copy of such publication.
- (10) As determined by the commissioner, violate any provision of the federal Credit Repair Organizations Act, 15 U.S.C. 1679 et seq, as amended. Any violation of such Act shall constitute a violation of state law.

#### **9:3573.4. Bond; trust account**

- A. All credit repair services organizations required to be licensed by the commissioner shall obtain a surety bond issued by a company licensed to do business in Louisiana or establish a trust account as provided in this Section.
- B. The bond shall be filed with the Office of Financial Institutions. If a trust account is established, a notarized or otherwise official notification of the deposit by the depository institution shall be filed with the Office of Financial Institutions. Such notification shall include, at a minimum, the name of the financial institution, name of the credit repair services organization, account number, and verification that the account is established in accordance with the terms set forth in this Section.
- C. The bond or trust account required must be in favor of the state of Louisiana for the benefit of any person who is damaged by any violation of this Part.
- D. Any persons claiming against the bond or trust account for a violation of this Part may maintain an action at law against the credit repair services organization and against the surety or trustee. The surety or trustee shall be liable only for damages awarded under R.S. 9:3573.10 and not the punitive damages permitted under that Section. The aggregate liability of the surety or trustee to all persons damaged by a credit repair services organization's violation of this Part shall not exceed the amount of the bond or trust account.

E. The bond or the trust account shall be in the amount of ~~twenty-five~~one hundred thousand dollars.

F. A depository holding money in a trust account under this Part may not convey money in the account to the credit repair services organization that established the account or a representative of the credit repair services organization unless the credit repair services organization or representative presents a statement issued by the office of financial institutions indicating that R.S. 9:3573.5(E) has been satisfied in relation to the account. The office of financial institutions may conduct investigations and require submission of information as necessary to enforce this Subsection.

G. The credit repair services organization shall notify the commissioner in writing within thirty days after it has ceased to do business in this state. The surety bond or trust account shall be maintained for two years after the date that the credit services organization ceases operations or the date that it has filed notice with the Office of Financial Institutions, whichever is later.

#### **9:3573.5. Registration**

~~A. A credit repair services organization shall file a registration statement with the Office of Financial Institutions before conducting business in this state, and annually thereafter not later than December thirty-first of each year. The registration statement shall contain:~~

~~(1) The name and address of the principal place of business of the credit repair services organization.~~

~~(2) Whether the business will be operated as a corporation, partnership, association, or sole proprietorship.~~

~~(a) If operated as a corporation, the name and address of each director of the corporation, each officer of the corporation, and any person who directly or indirectly owns or controls ten percent or more of the outstanding shares of stock in the credit repair services organization.~~

~~(b) If operated as a partnership, the name and address of each partner.~~

~~(c) If operated as an association, the name and address of each of its members.~~

~~(3) The name and address of the credit repair services organization's agent in the state authorized to receive service of process.~~

~~(4) Either:~~

~~(a) A full and complete disclosure of any litigation or unresolved complaint filed with any governmental authority of this state relating to the operation of the credit repair services organization.~~

~~(b) A notarized statement that there has been no litigation or unresolved complaint filed with any governmental authority of this state relating to the operation of the credit repair services organization.~~

~~(5) Any other information that may be required by the commissioner.~~

~~B. The credit repair services organization shall update the statement within ninety days after the date on which a change in the information required in the statement occurs.~~

~~C. Each credit repair services organization registering hereunder shall maintain a copy of the registration statement in the files of the credit repair services organization. The credit repair services organization shall allow a buyer to inspect the registration statement on request.~~

#### **9:3573.6. Disclosure statement**

A. Before executing a contract or agreement with a buyer or receiving money or other valuable consideration, a credit repair services organization shall provide the buyer with a statement in writing, containing:

(1) A complete and detailed description of the services to be performed by the credit repair services organization for the buyer and the total cost of the services.

(2) A statement explaining the buyer's right to proceed against the bond or trust account required by R.S. 9:3573.4.

(3) The name and address of the surety company that issued the bond or the name and address of the depository and the trustee and the account number of the trust account.

(4) A complete and accurate statement of the buyer's right to review any file on the buyer maintained by a consumer reporting agency, as provided by the Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(5) A statement that the buyer's file is available for review from the consumer reporting agency at no charge, under certain circumstances, if requested by the consumer within thirty days of receiving notice of a denial of credit and as provided in the federal Fair Credit Reporting Act.

(6) A complete and accurate statement of the buyer's right to dispute directly with the consumer reporting agency the completeness or accuracy of an item contained in a file on the buyer maintained by that consumer reporting agency.

(7) A statement that accurate information cannot be permanently removed from the files of a consumer reporting agency.

(8) A complete and accurate statement of when consumer information becomes obsolete and of when consumer reporting agencies are prevented from issuing reports containing obsolete information.

(9) A complete and accurate statement of the availability of nonprofit credit counseling services.

B. The credit repair services organization shall maintain on file, for a period of two years after the date the statement is provided, an exact copy of the statement, signed by the buyer, acknowledging receipt of the statement.

### **9:3573.7. Form and terms of contract**

A. Each contract between the buyer and a credit repair services organization for the purchase of the services of the credit repair services organization must be in writing, dated, signed by the buyer, and must include:

(1) A statement in type that is boldfaced, capitalized, underlined, or otherwise set out from surrounding written materials so as to be conspicuous, in immediate proximity to the space reserved for the signature of the buyer, as follows: "You, the buyer, may cancel this contract at any time before midnight of the fifth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right."

(2) The terms and conditions of payment, including the total of all payments to be made by the buyer, whether to the credit repair services organization or to another person.

(3) A full and detailed description of the services to be performed by the credit repair services organization for the buyer, including all guarantees and all promises of full or partial refunds, and the estimated length of time, not to exceed one-hundred eighty days, for performing the services.

(4) The address of the credit repair services organization's principal place of business and the name and address of its agent in the state authorized to receive service of process.

B. The contract must have attached two easily detachable copies of a notice of cancellation. The notice must be in boldfaced type and in the following form:

#### **"Notice of Cancellation"**

You may cancel this contract, without any penalty or obligation, within five days after the date the contract is signed.

If you cancel, any payment made by you under this contract will be returned within ten days after the date of receipt by the seller of your cancellation notice.

To cancel this contract, send by registered or certified mail, return receipt requested, or deliver in person, a signed dated copy of this cancellation notice, or other written notice to:

(Name of seller) at (address of seller) (place of business) not later than midnight (date).

I hereby cancel this transaction.

(date) (purchaser's signature)"

C. The credit repair services organization shall give to the buyer a copy of the completed contract and all other documents the credit repair services organization requires the buyer to sign at the time they are signed.

D. The breach by a credit repair services organization of a contract under this Part, or of any obligation arising from a contract under this Part, is a violation of this Part.

### **9:3573.8. Waiver**

A. A credit repair services organization shall not attempt to cause a buyer to waive a right under this Part.

B. A waiver by a buyer of any part of this Part is void.

### **9:3573.9. Powers of the commissioner**

(1) The commissioner shall have the power to examine all books, records, and accounts of all persons regulated under this Part. In addition to maintaining a copy of the contract signed by the buyer and a copy of all correspondence pertaining to the efforts made by the credit repair services organization to improve the buyer's credit rating, the commissioner may prescribe by rule additional record keeping requirements as deemed necessary to determine compliance with this Part.

(2)(a) Each credit repair services organization required to be licensed under this Part shall maintain in its offices such books, records, and accounts of its credit repair services activities as the commissioner may require in order to determine whether such credit repair services organization is complying with the provisions of this Part and the rules and regulations promulgated under the provisions of this Chapter, including but not limited to copies of all documentation regarding customer transactions, itemization of all monies received and disbursed, and documentation showing what services were performed for all monies received.

(b) Such books, records, and accounts shall be maintained separate and apart from any other business which the organization is involved and shall be kept at the location in the state at which the credit repair services activity occurred or at the organization's principal office unless otherwise permitted in writing by the commissioner. If the credit repair services organization's books, records, and accounts are located outside the state, the organization, at the commissioner's option, shall make them available to the commissioner at a location within the state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained.

(c) Each reproduction of any book, record, or account shall be treated for all purposes as if it were the original of the same.

B. After notice and opportunity to be heard as provided in the Administrative Procedure Act, the commissioner may revoke or suspend the license of a credit repair services organization that:

- (1) Violates, in substance or in form, any of the provisions of this Part or any rule or regulation promulgated, or any order, including a cease and desist order, issued pursuant to this Chapter or the provisions of 15 U.S.C. 1679.
  - (2) Violates, in substance or in form, any provision of a voluntary consent or compliance agreement which has been entered into with the commissioner.
  - (3) Has knowingly provided or caused to be provided to the commissioner any false or fraudulent misrepresentation of material fact or any false or fraudulent financial statement, or has suppressed or withheld from the commissioner any information which if submitted by him would have resulted in denial of the license application.
  - (4) Refuses to permit an examination by the commissioner of his books and affairs or has refused or failed within a reasonable time to furnish any information or make any report that may be required by the commissioner under the provisions of this Part.
  - (5) Fails to maintain records as required by the commissioner after being given written notice and thirty days within which to correct the failure. The commissioner may grant, on good cause shown, up to two thirty-day extensions within which to correct the recordkeeping violations.
  - (6) Continues in office any individual with power to direct the management or policies of a person regulated by the Part, including but not limited to any officer, director, or manager, if such individual is convicted of, pleads guilty to, or enters a plea of nolo contendere of any felony under any state or federal law which involves moral turpitude or which involves any aspect of the credit repair services organization business.
  - (7) Violates any provision of a regulatory or prohibitory statute and has been found to have violated such statute by the governmental agency responsible for determining such violations.
  - (8) Misrepresents material facts or makes false promises likely to influence, persuade, or induce an applicant into a credit repair services transaction, or pursues a course of misrepresentation through agents or otherwise.
  - (9) Misrepresents or conceals material facts, terms or conditions of a transaction to which he is a party, pertinent to an applicant for a credit repair services organization.
  - (10) Knowingly engages in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with any credit repair services transaction.
  - (11) Fails to pay any fee or assessment imposed by this Part or by any rule or regulation promulgated in accordance with this Chapter.
  - (12) Violates, in substance or in form, the written restrictions or conditions under which the license was issued.
  - (13) Fails, after notice and without lawful excuse, to obey any order or subpoena issued by the commissioner.
  - (14) Advertises as a credit repair services organization without being properly licensed as required by this Part or advertises as a credit repair services organization in a manner determined by the commissioner, in his discretion, to be in violation of any provision of this Part or any rule or regulation promulgated pursuant to this Chapter or 15 U.S.C. 1679.
- C. The commissioner may report egregious violations to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided for this Section.
- D. The Office of Financial Institutions may issue advisory opinions and interpretations regarding this part, and such advisory opinions and interpretations shall not be considered rules requiring compliance with the rulemaking process of the Louisiana Administrative Procedure Act. The commissioner and the employees of the Office of Financial Institutions shall have no liability to any person with respect to an advisory opinion or interpretation issued in connection with this Part.
- E. Any person who acts as a credit repair services organization without complying with the provisions of this Part shall be subject to forfeiture of the compensation attributable to a particular client and received by the credit repair services organization in connection with credit repair services activity for that client.
- F. All grounds for suspension or revocation listed in Subsection B of this Section are violations of this Part and may serve as the basis for any other enforcement action provided to the commissioner by this Chapter.
- G. The commissioner may share information about any particular entity which is licensed by the commissioner in the manner provided for in R.S. 9:3518.1.
- H. When the commissioner has cause to believe that any person has violated or is violating any provision of this Part, he may, in addition to the other powers conferred upon him, request such person to file a statement or report in writing under oath or otherwise, on forms prescribed by him, as to all facts and circumstances concerning the sale or advertisement of services by any credit repair services organization and any other data and information he deems necessary.
- I. (1) The commissioner shall have the power to issue subpoenas to any person for the purpose of discovering violations in this Part and to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry, administer oaths, and examine under oath any person in connection with the sale of services by any credit repair services organization.
- (2) Service of any notice, order, or subpoena may be made by personal service or certified mail.

J. The commissioner may make and promulgate rules and regulations as he deems necessary to carry out the provisions of this Part, including but not limited to the following:

- (1) Providing for definitions.
- (2) Establishing licensure requirements.
- (3) Providing for bond and trust account requirements.
- (4) Addressing issues regarding transaction disclosures.
- (5) Establishing fees and assessments.
- (6) Addressing issues regarding forms and terms of contracts.
- (7) Providing for administrative and enforcement actions.
- (8) Addressing issues regarding advertising as a credit repair services organization.
- (9) Providing for records retention requirements.

K. The commissioner may enter into cooperative and reciprocal agreements with the regulatory authorities of the federal government or of any state for the periodic examination of persons engaging in the business of credit repair and may accept reports of examination and other records from such authorities in lieu of conducting his own examinations. The commissioner may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his responsibilities under this Part and assure compliance with the laws of this state.

L. In addition to any other authority conferred upon the commissioner by this Part or this Chapter, the commissioner may order refunds of the unauthorized portion of any fee or charge a person collects in violation of this Part and may impose a penalty not exceeding one thousand dollars per violation upon any person who he has determined to have committed such violation. For purposes of this Subsection, each unauthorized fee or charge shall be considered a violation.

M.(1) Any person whose licensure under this Part has been revoked, for any reason, may not reapply for a license under the Part until after at least five years from the date of the order of suspension or revocation, unless the commissioner, in his sole discretion, prescribes an earlier or later date.

(2) For purposes of this Subsection:

(a) The term "order" shall mean the commissioner's notification of revocation of the person's license.

(b) The term "person" shall include the applicant, its owners, and its members if the applicant is a limited liability company, its partners if the applicant is a partnership, its officers and directors if the applicant is a corporation, and any other person determined by the commissioner, in his sole discretion, to be closely related to the person.

N. Subject to the provisions of R.S.13:4521 and 4581, all estimated costs of appeal, including those involved in preparation of the administrative record for appeal, taken by a person in connection with an adverse ruling of an administrative law judge in connection with a hearing held pursuant to this Chapter and the Administrative Procedure Act, shall be paid by that person within sixty days of the filing of the petition for appeal in the district court. Failure to pay such estimated costs within the time specified herein shall result in said appeal being dismissed with prejudice and without the necessity of any further action being taken by an party.

O. Any final and definitive decision of an administrative law judge, or in the case such decision is appealed, a final and definitive judgment of an appellate court, issued in connection with any hearing held pursuant to this Chapter and the Administrative Procedure Act shall be considered a valid and final judgment that may be made executory by the commissioner in accordance with the Code of Civil Procedure.

#### **9:3573.10. Action for damages**

A. A buyer injured by a violation of this Part or by a credit repair services organization's breach of contract subject to this Part may maintain an action in a court of competent jurisdiction for recovery of actual damages plus costs of suit and reasonable attorney fees, which shall be measured by the time reasonably expended by the consumer's attorney and not by the amount of recovery. In case of an action brought by a buyer, actual damages shall not be less than the amount paid by the buyer to the credit repair services organization.

B. In the event of a willful violation by a credit repair services organization of this Part or of a contract subject to this Part, a person who is injured thereby shall be awarded, in addition to the damages allowable under Subsection A of this Section, an additional amount equal to twice the actual damages awarded under Subsection A of this Section.

C. A person who is entitled to recover damages, costs, or attorney fees from a credit repair services organization may petition the Office of Financial Institutions for relief under any surety bond established pursuant to R.S. 9:3573.4.

#### **9:3573.11. Orders, injunctions, and publication; availability of records to the general public.**

A. A buyer may bring an action in a court to enjoin a violation of this Part.

B. The commissioner may, in his discretion, conduct such investigations as he deems necessary to ascertain possible violations of this Part or any rule, regulation, or order promulgated or issued pursuant to this Chapter. Any person who is engaged in or is engaging in or is about to engage in any act or practice which is prohibited by this Part or any rule, regulation, or order promulgated or issued pursuant to this Chapter, or any person who has failed to act or is failing to act

or is about to fail to act under any affirmative duty imposed by this Part or any rule, regulation, or order promulgated or issued pursuant to this Chapter, shall be subject to appropriate action by the commissioner. Such action shall include but shall not be limited to the issuance of orders to cease and desist or to assess civil money penalties, entering into compliance agreements, seeking injunctive relief from a court of competent jurisdiction, or any combination thereof.

C. The commissioner shall make available for inspection by the general public, electronically or otherwise, any and all ~~final~~ orders and/or decisions arising from any violation of this Part, with respect to the following exclusively enumerated actions:

- (1) Cease and desist orders.
- (2) Denial of an application for licensure, notification, or exemption.
- (3) Revocation or suspension of a license, notification, or exemption.
- (4) Assessment of civil money penalties and/or fines.
- (5) Obtaining injunctive relief.
- (6) Unlicensed activities.

#### **9:3573.12. Statute of limitations**

An action shall not be brought under R.S. 9:3573.10 or 3573.11 after four years after the date of the execution of the contract for services to which the action relates.

#### **9:3573.13. Criminal penalty**

A. A person who willfully violates any provision of this Part is guilty of a misdemeanor and upon conviction may be sentenced to pay a fine of not less than two hundred fifty dollars nor more than five thousand dollars, or to imprisonment not exceeding one year, or both.

B. The commissioner through an administrative action, or the district attorney of any judicial district may maintain an action to enjoin violations of this Part.

C. Costs and reasonable attorney fees shall be awarded to the commissioner or a district attorney in all injunctive actions where the commissioner or district attorney successfully enforces this Part.

#### **9:3573.14. Burden of proving exemption**

A. In an action under this Part, the burden of proving an exemption under R.S. 9:3573.2(B) shall be on the person claiming the exemption.

#### **9:3573.15. Remedies cumulative**

The remedies provided by this Part are in addition to any other remedies provided by law.

B. Repealed by Acts 2004, No. 79 § 2, effective May 28, 2004.

#### **9:3573.16. Civil money penalties**

A person who violates a provision of this Part may be fined up to one thousand dollars for each violation. The commissioner may maintain a civil action in a court of competent jurisdiction to recover such fines, together with his costs and attorney fees incident to such action.

#### **9:3573.17. Notification or service**

Whenever a person becomes licensed by the commissioner, pursuant to this Part, such person shall provide a physical address to the commissioner that may be used as a basis for service or notification of any order or other issuance or communication by the commissioner to such person. Whenever such person changes his physical address, he must notify the commissioner at least thirty days prior to the change. Notification or service of any order, notice, or other issuance or communication by the commissioner by certified mail to the address most recently provided to him by the person shall satisfy all requisites of service required for any registration, administrative enforcement, or other action, undertaken by him pursuant to the Louisiana Administrative Procedure Act or otherwise, in connection with such person.

#### **9:3573.18 to 9:3573.26. [Blank]**

### **DISCLAIMER**

**PLEASE NOTE THAT THE OFFICIAL VERSION OF THE LOUISIANA REVISED STATUTES IS MAINTAINED BY THE STATE OF LOUISIANA ON THE LOUISIANA LEGISLATURE'S WEBSITE LOCATED AT [www.legis.state.la.us](http://www.legis.state.la.us) . THIS VERSION IS UNOFFICIAL AND SHOULD NOT BE RELIED ON WHEN MAKING LEGAL DETERMINATIONS AFFECTING A PERSON'S RIGHTS OR OBLIGATIONS WITHOUT FIRST CONSULTING WITH COMPETENT LEGAL COUNSEL.**